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SUBSIDIES, COUNTERVAILING MEASURES AND DEVELOPING COUNTRIES: With a focus on the Agreement on Subsidies and Countervailing Measures

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I. INTRODUCTION

The Agreement on Subsidies and Countervailing Measures (ASCM) classifies subsidies, by analogy with traffic lights, into three categories- "red" or prohibited, "yellow" or actionable, and "green"or non-actionable- mainly on the basis of their propensity to distort trade. As a response to each category of subsidies the Agreement provides different remedies.

In the Uruguay Round Agreements, which came into force in January 1995, member countries agreed to cut both the amount of money they spend on export subsidies and the quantities of exports that receive subsidies. However, developing countries are exempted from this in the short term and can continue, under certain conditions, to use subsidies to reduce the costs of marketing and transporting exports. Least developed countries (LDCs) are exempted altogether. Subsidy reduction in developed countries may have a positive impact in terms of export opportunities for agricultural products from developing countries.

This paper attempts to provide a better understanding of the ASCM in the interest of developing countries, which are often ill-equipped to make full use of the benefits accorded to them by the Agreement. The issues addressed in this paper include the scope and structure of the Agreement, categories of subsidies, the mechanisms for implementing countervailing measures and dispute settlement. In terms of binding disciplines on provision of subsidies, it should be noted that the ASCM applies only to industrial subsidies while agricultural subsidies are subject to provisions of the Agreement on Agriculture (AoA). However, reference is made to the latter, given the importance of agriculture and commodity-based national agricultural policies in developing countries. This is done in order to highlight the differences regarding the use of subsidies and countervailing measures in agriculture and in other sectors. Reference is made, in addition, to notifications under the ASCM in order to help developing countries have a better understanding of the procedure for, and the nature of, the main types of notifications submitted to the Committee on Subsidies and Countervailing Measures (SCM Committee). Also discussed are suggestions for improvements to the Agreement that would be of interest to developing countries, and the debate on the outcome of the Seattle Ministerial Conference of the World Trade Organization (WTO) with respect to the relationship between subsidy elimination in developed countries and the "multifunctionality" of agriculture.

II. STRUCTURE AND SCOPE OF THE AGREEMENT

The ASCM deals with two separate but closely related issues: the multilateral disciplines which regulate whether a subsidy may be provided by a member, and the use of countervailing measures that offset injury caused by subsidized imports.

A. Structure of the Agreement

- Part I of the Agreement states that the Agreement applies only to subsidies that are specifically provided to an enterprise or industry or group of enterprises or industries.

- Parts II, III and IV divide all specific subsidies into three categories- **prohibited, actionableand non-actionable**- and lay down certain rules and procedures with regard to each category.

- Part V sets out the **substantive and procedural requirements** that must be fulfilled before a WTO Member State may apply a countervailing measure against subsidized imports.

- Parts VI and VII provide the **institutional structure and notification/surveillance** modalities for implementation of the ASCM.

- Part VIII contains **special and differential treatment** rules for various categories of developing country members. Part IX contains transition rules for developed country and former centrally planned economy members.

- Parts X and XI contain **dispute settlement and final provisions.**

B. Scope of the Agreement

Part I defines the scope of the Agreement. Specifically, it defines the term "subsidy" and provides an explanation of the concept of "specificity". Only a measure that is a "specific subsidy" within the context of Part I is subject to multilateral disciplines and can be subject to countervailing measures.

1. Definitions[1]

a. Subsidies: Prohibited, actionable and non-actionable

Generally, a subsidy is financial support granted by the State, sub-national Governments or a public body. Such support can be direct or indirect government grants for production or exportation of goods, including the transportation of any particular product. Under the ASCM, a subsidy shall be deemed to exist if:

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[1] The definitions refer to those in the *Agreement on Subsidies and Countervailing Measures*, WTO/GATT, May 1994.

(i) A financial contribution by a Government or any public body within the territory of a member is proved, and where a Government practice involves a direct transfer of funds (grants, loans and equity infusion), or a potential direct transfer of funds or liabilities (loan guarantees);

(ii) Government revenue that is otherwise due, is forgone or not collected (fiscal incentives such as tax credits);

(iii) A Government provides goods or services other than general infrastructure or purchases goods;

(iv) A Government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the types of functions mentioned above which would normally be vested in the Government, and the practice differs from practices normally followed by Governments.

A subsidy will be considered to exist if there is any form of income or price support, and a benefit is thereby conferred. A financial contribution by a Government is not a subsidy unless it confers a benefit. In most cases the term "benefit" will be more complex, since it seems to be difficult to determine when a loan, an equity infusion or the purchase by a Government of a good confers a benefit. Although the concept of "benefit" was much discussed during the Uruguay Round, the Agreement provides only partial guidance with regard to that concept.

Some examples include the purchase of equity by a Government in a company which may not be expected to yield a reasonable return within a certain period; concessional loans, i.e. loans at a concessional rate of interest or where the Government stands a guarantee to a loan; deferment of collection of loans, taxes providing goods or services at concessional prices or at prices lower than the prevailing market prices; and the purchase of goods at prices higher than those prevailing in the market.

Thus, a subsidy exists only if there is a financial contribution provided by the government or a public body. If it is provided by a private body, it will not be considered a subsidy. However, if the Government makes a payment to a funding mechanism, or entrusts or directs a private body to make any financial contribution in the manner mentioned above, that too may be treated as a subsidy.

In addition, the exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be a subsidy.

As subsidies have the effect of lowering the price of the merchandise, they may adversely affect the interest of other countries and are therefore likely to invite action from them. However, an *action against a subsidy can be maintained only if the subsidy is specific, i.e. if its availability is restricted to specified recipients*, namely *enterprises, industries or a group of enterprises or industries.* The three categories of subsidies are described in table 1.

Article 3 of the Agreement deals with prohibited subsidies and provides that the following

subsidies shall be prohibited: (i) subsidies contingent in law or in fact, whether solely or as one of several other conditions, upon export performance; (ii) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

Table 1
Prohibited, actionable and non-actionable subsidies, and remedies

Type of subsidy	Non-countervailable subsidies	Countervailable subsidies	Remedies
Non-actionable subsidies	(a) For general infrastructure	.....	.....
	(b) Non-specific subsidies	.....	.....
	(c) Specific subsidies (programme notified to WTO): – For R&D; – For disadvantaged regions; or – For new environmental adaptation.	....	Only if the subsidy has a serious adverse effect on another member: – Consultations; – Matter may be referred to WTO for suggesting modifications; – Countermeasures, if suggestions are not followed.
Actionable subsidies	(d) Specific subsidies, excluding those covered under (c) above, if they do not cause adverse effects, i.e.: – No injury – Benefits not nullified or impaired, and – No serious prejudice caused	(e) Specific subsidies, excluding those covered under (c) above, if they cause adverse effects.	– Consultations; – Dispute settlement through WTO; or – Countervailing measures. ....
Prohibited subsidies	.....	(f) Export subsidies; (g) Subsidies for use of domestic over imported goods.	Dispute settlement through WTO

Source: Agreement on Subsidies and Countervailing Measures WTO/GATT, May 1994

These two categories of subsidies are prohibited because of their negative effects on trade and of the likelihood that they will therefore have adverse effects on other members. The mere fact that a subsidy is granted to enterprises which export cannot, for that reason alone, be considered to be an export subsidy within the meaning of this provision. The ASCM establishes the legality of subsidy, identifying (i) **prohibited** subsidies, which are contingent on export performance or on using domestic inputs rather than imports; (ii) **actionable** subsidies, which

have adverse effects on the interests of other members (i.e. injury to or serious prejudice to the interests of the domestic industry of another member); and (iii) **non-actionable** subsidies, which are not exposed to the possibility of remedial action (i.e. assistance to research activities and to disadvantaged regions within countries, and for adaptation to meet environmental regulations).

Subsidies that are not *specific* (see box 1) (i.e. generally available or granted on the basis of objective criteria or conditions, and not limited to certain enterprises or industries) are not actionable unless it can be demonstrated that they are specific in practice. Programmes such as those for research activities, disadvantaged regions and environmental regulations must be notified to the SCM Committee, if not, they lose their non-actionable status and are exposed to possible countervailing duties. It is important to note that the provisions on non-actionable subsidies run for five years only, and are to be reviewed six months before the end of that period.

Box 1
Types of specificity

They are four types of "specificity" the ASCM:

(i) **Enterprise-specificity:** a Government targets a particular sector or sectors for subsidization;

(ii) **Industry-specificity**: a Government targets a particular sector or sectors for subsidization;

(iii) **Regional-specificity**: a Government targets producers in specified parts of its territory for subsidization;

(iv) **Product-specificity**: a Government targets export goods or goods using domestic inputs for subsidization.

Source: WTO, Agreement on Subsidies and Countervailing Measures.

Other subsidies are actionable, either through countervailing duties if they cause material injury to domestic producers, or through other remedial action if they nullify GATT benefits from tariff concessions or if they cause serious prejudice to interests of other members by displacing or impeding imports into the national market or displacing exports to third-country markets. The ASCM provides clear rules for recourse against actionable or prohibited subsidies. Some subsidies, including those where *ad valorem* subsidization exceeds 5 per cent, and those aimed at covering operating losses of enterprises or direct debt forgiveness, are deemed to cause serious prejudice to other members' trade interests. The ASCM provides detailed rules governing the conduct of countervailing duty investigations. This entails proving a causal link between subsidization and injury.

One of the main features of the Agreement is the extension of the obligations to developing country members after an eight-year transition period, except for LDC members and members with a per capita gross national product (GNP) of less than US$ 1,000 a year. The latter have no obligations in this respect. Furthermore, the creation of a rapid three-month dispute settlement mechanism for complaints with regard to prohibited subsidies is an improvement over the

previous situation.

b. Countervailing measures

Countervailing measures are measures taken to offset the adverse effects of assistance granted for manufacture, production or exportation of goods. They are instruments which may be applied by a member after an investigation by that member and a determination that the criteria set forth in the ASCM are met.

The imposition of countervailing duties under the ASCM applies to all products, including agricultural products, these being exempted under Article 13 of the AoA (i.e. mainly those covered by Annex II and Article 6 of the AoA).

Part V of the Agreement, which deals with countervailing measures, provides that the provisions of Part II and Part III, relating to prohibited subsidies and actionable subsidies respectively, may be invoked in parallel with the provisions of Part V. Regarding the effects of a particular subsidy on the domestic market of the importing member, only one form of relief (either a countervailing duty, if the requirements of Part V are met, or a countermeasure under Article 4 or 7) is available. In addition, the provisions of Parts III and V cannot be invoked regarding measures considered non-actionable in accordance with the provisions of Part IV. Measures referred to in paragraph 1(a) of Article 8 relating to non-specific subsidies may be investigated in order to determine whether they are specific within the meaning of Article 2, which deals with specificity.

In the case of Article 8 concerning specific subsidies for research, granted pursuant to a programme which has not been notified in accordance with paragraph 3 of Article 8, the provisions of Part III or V may be invoked. However, such a subsidy will be treated as non-actionable if it is found to conform with the standards set forth in paragraph 2 of Article 8. With regard to Part V of the Agreement, imposing a countervailing measure must meet certain substantive requirements, as well as in-depth procedural requirements relating to the conduct of a countervailing investigation and the imposition and maintenance of countervailing measures. Failure to respect the substantive or procedural requirements of Part V can be taken to dispute settlement and may be the basis for invalidation of the measure in question.

2. Rules on countervailing measures

a. Substantive rules

It may not be possible for a member to impose a countervailing measure unless it determines that there are subsidized imports, injury to a domestic industry and a causal link between the subsidized imports and the injury. The existence of a specific subsidy must be determined in accordance with the criteria in Part I of the Agreement. The criteria regarding injury and causation are to be found in Part V.

b. Procedural rules

Part V of the ASCM sets out detailed rules regarding the initiation and conduct of

countervailing investigations, the imposition of preliminary and final measures, the use of undertakings, and the duration of measures. These rules are aimed at ensuring that investigations are conducted in a transparent manner, that all interested parties have a full opportunity to defend their interests and that investigating authorities adequately explain the bases for their determinations. Some of the most important innovations in the Agreement are as follows:

- *Standing*. The Agreement defines in numerical terms the circumstances under which there is to be considered sufficient support from a domestic industry to justify initiation of an investigation.

- *Preliminary investigation*. The Agreement ensures that a preliminary investigation is conducted before a preliminary measure can be imposed.

- *Undertakings*. The Agreement places limitations on the use of undertakings to settle countervailing duties.

- *Sunset*. The Agreement requires that a countervailing measure be terminated after five years unless it is determined that its continuation is necessary in order to avoid the continuation or recurrence of subsidization and injury.

- *Judicial review*. The Agreement requires that members create an independent tribunal to review the consistency of determinations of the investigating authority with domestic law.

III. SPECIAL AND DIFFERENTIAL TREATMENT FOR DEVELOPING COUNTRIES

It is recognized in the ASCM that "subsidies may play an important role in economic development programmes of developing country members". The Agreement accords these members exemptions from the restrictions on subsidies, and establishes three categories of Developing Country Members: (i) LDCs, (ii) countries with a per capita GNP of less than US$ 1,000 per year, and (iii) other developing countries.

In the light of this, the lower a member's level of development, the more favourable the treatment it receives with respect to subsidies disciplines. LDCs and members with a GNP per capita of less than $1000 per year are exempted from the prohibition on export subsidies. Other developing country members have an eight-year period in which to phase out their export subsidies; they cannot increase their level of export subsidies during this period and will eliminate them within a shorter period when the use of such subsidies is inconsistent with their development needs.

If a developing country member deems it necessary to apply export subsidies beyond the eight-year period, it must – not later than one year before the expiry of this period – enter into consultation with the WTO's SCM Committee. The Committee will decide whether an extension of this period is justified after examining all the relevant economic, financial and development needs of the developing country member in question. If it decides that the extension is justified, the member concerned will be required to hold annual consultations with the Committee to determine whether it is necessary to maintain the subsidies. If the Committee determines that it is not necessary, the developing country member will be required to phase out the remaining export subsidies within two years from the end of the last authorized period.

Similarly, with regard to import-substitution subsidies, LDCs have eight years and developing country members other than LDCs and those with per capita GNP of less than US$1,000 have five years after 1995 to start phasing out such subsidies. This process needs to be completed by 2003. Also, there is a favourable treatment with respect to actionable subsidies. For instance, certain subsidies related to developing country members' privatization programmes are not actionable multilaterally.

Regarding countervailing measures, developing country members are entitled to more favourable treatment with respect to the termination of investigations where the level of subsidization or volume of imports is small. With regard to dispute settlement, there are special mechanisms for gathering information needed to assess the existence of serious prejudice in actionable subsidy cases.

A. Export competitiveness

Under the ASCM, if a developing country member reaches a state of export competitiveness defined as a share of 3.25 per cent or more in world trade of a particular product for two consecutive calendar years, it is required to phase out export subsidies on that product. In this context, export competitiveness will exist either on the basis of (i) notification by the developing country member having reached export competitiveness, or (ii) a computation undertaken by the

WTO secretariat at the request of any member. Table 2 shows the special and preferential treatment granted to developing country members.

Table 2
Preferential treatment of developing countries, and its phasing out

Nature of subsidy	Least developed member countries	Specified developing countries with per capita GNP below US$ 1,000	Other developing countries
Export subsidies, para 3.1 (a) Subsidies contingent on use of domestic over imported goods, para 3.1 (b).	To be phased out within eight years of reaching export competitiveness. Does not apply for eight years.	To be phased out within eight years of reaching export competitiveness. Does not apply for five years.	To be phased out in eight years or within two years of reaching export competitiveness. Does not apply for five years

Source: GATT/WTO (1994).

In addition, any countervailing duty investigation of a product originating in a developing country member will be terminated immediately if the authorities determine that:

(i) The overall level of subsidies granted for the product in question does not exceed 2 per cent of its value calculated on a per unit basis;[2] or

(ii) The volume of subsidized imports represents less than 4 per cent of the total imports of the like product in the importing country member, unless imports from developing country members whose individual shares of total imports represent less than 4 per cent collectively account for more than 9 per cent of the total imports of the like product in the importing member.

B. Privatization programme of a developing country member

To encourage privatization, the ASCM provides for direct forgiveness of debt or subsidies to cover social costs when these are granted within and directly to a privatization programme of a developing country member. Countervailing duties for these subsidies will not apply when both the programme and the subsidies involved are for a limited period and are notified, and when the programme results in privatization of the enterprise concerned.

C. Transformation into a market economy

The ASCM also grants general permission to member countries undergoing a transition from a centrally planned economy to a free enterprise economy to apply programmes and measures necessary for such a transformation (Article 29). Specifically, it provides that such countries do not immediately attract prohibition on subsidies covered under Article 3 relating to prohibited subsidies.

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[2]Reference is made to the *de minimis* criteria, which means that the amount of a subsidy is to be considered *de minimis* if this amount is less than 1 per cent *ad valorem*.

However, they are required to phase out or bring into conformity such subsidy programmes within a period of seven years. In addition, the remedial provision stipulated in Article 4 and the remedies against adverse effects and serious prejudice in relation to actionable subsidies under Article 7 will also not apply except for subsidies in the form of direct forgiveness of debt.

D. Agriculture

There is an imbalance in the WTO context in dealing with subsidies, and as a long-term objective of the WTO all subsidies (both industrial and agricultural) should eventually be brought under the same set of WTO rules and disciplines. The ASCM, with reference to the Agreement on Agriculture (AoA), excludes agricultural subsidies from the limits of its disciplines. For instance, (i) the prohibition of certain subsidies, including export subsidies, under Article 3 of the ASCM does not apply to agricultural products; (ii) the requirement in Article 5 that no WTO member should cause adverse effects for the interests of other members does not apply to subsidies maintained on agricultural products; (iii) Article 6, which establishes the notion of "serious prejudice", does not apply to subsidies maintained on agricultural products; and (iv) Article 7, which provides remedies, is similarly not applicable with regard to agricultural products.

Article 10, which is the application of Article 5 under GATT 1994, indicates that countervailing duties may only be imposed pursuant to investigations and conducted in accordance with the provisions of the ASCM and the AoA.

In the light of this, it appears that the approach to regulating the use of agricultural subsidies is fundamentally different from that adopted in the ASCM. Rather than dividing these subsidies into prohibited, actionable and non-actionable categories, the AoA includes commitments in the areas of *market access*, *domestic support* and *export competition*.

With regard to domestic support, developed countries were required to make a commitment to reduce the total Aggregate Measurement of Support (AMS) during the base period 1986–1988 by 20 per cent over a period of six years. The reduction commitment for developing countries was 13.3 per cent over a period of 10 years. LDCs, however, were not required to make any such commitments. The commitments are not product-specific. For instance, in the case of the United States, the Schedule includes a commitment to reduce the total AMS from $23 billion to $19 billion. The corresponding reduction commitment for Japan is a reduction from ¥4,800 billion to ¥3,900 billion, and for the European community from ECU 73 billion to ECU 61 billion.

Measures in favour for developing countries concern investment subsidies for agriculture, input subsidies generally available to low-income or resource-poor producers, and domestic support to producers to foster diversification out of illicit narcotic crops. Special and differential treatment for developing countries was also recognized with regard to the criteria for the application of certain "Green Box" measures (public stockholding for food security purposes and domestic food aid). These are mentioned in paragraphs 3 and 4 of the AoA. Moreover, the Ministerial Decision allows net food-importing developing countries (NFIDC) to use additional

assistance for their agriculture, including subsidies financed in this context.[3]

One of the expectations emerging from the Uruguay Round is the promotion of more liberal market conditions and "improving the competitive environment by increasing discipline on the use of all direct and indirect subsidies and other measures affecting directly or indirectly agricultural trade, including the phased reduction of their negative effects and dealing with their causes".[4]

Although the commitments on domestic support may have been the most ground-breaking and the commitments on market access the most far-reaching for long-term agricultural trade, the commitments on export subsidies are widely considered to be the most important in the short-term. This was one of the most sensitive and the most difficult topics discussed in Seattle. It set the European Union against the United States, including the Cairns Group, and the developing nations. Five years after the implementation of the Uruguay Round, there has been very little reduction of world market distortions in this area because of slack in the commitment levels.

In this context, clear commitments on domestic policies providing support to farmers, particularly those in the poor countries, must be emphasized in the Uruguay Round Agreements. In least developed and developing countries, but also in industrialized countries, the role of Governments in domestic agriculture is still substantial for a number of reasons, many of which extend beyond the production of agricultural goods e.g. protection of the environment, maintenance of particular landscapes perceived as desirable, rural and regional population objectives and farm income and employment objectives. Therefore, domestic agricultural policy objectives in countries with an agriculture which is not competitive under liberalized market conditions (such as arid or Sahelian regions) give rise to a number of concerns, which need to be given special consideration. To that end, further analysis by country, region and/or collectively may shed light on possible ways forward within the context of further WTO negotiations on agriculture, which will restart at an early date in 2000.

E. Notifications on the use of subsidies under Article 25

Developing countries are allowed to maintain, in the short term, the use of subsidies. Four examples are given below of developing countries informing the ASCM of their use of subsidies. The first two follow the structure requested by the ASCM. The other two are also relevant and good examples in accordance with Article 25 even though they do not follow the same structure.

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[3] In the Ministerial Decision, Ministers agreed that developed country WTO members should continue to give full consideration in the context of their aid programmes to requests for the provision of technical and financial assistance to LDCs and NFIDC.

[4] See the Marrakech Declaration, Uruguay Round Agreement, 1994.

1. Examples of notifications

Two cases from Argentina (G/SCM/N/3/ARG)

(a) First example from Argentina

1. *Title of the subsidy programme or brief description or identification of the subsidy*
Refund scheme for Patagonian ports. (Law No. 23,018)

2. *Period covered by the notification*
Law No. 23,018 entered into force on 22 December 1983, and is still in force.

3. *Policy objective and/or purpose of the subsidy*

The objective is the development of the Patagonia region of Argentina, which is located south of the Colorado River and comprises all the territory up to the southern province of Tierra del Fuego. This region is very underpopulated, has a low per capita income and has not been developed industrially. The programme aims at promoting new investments in local manufacturing in order to increase the regional gross domestic product (GDP).

4. *Background and authority for subsidy (including identification of the legislation under which it is granted)*

Secretariat of Trade and Investment
National Customs Administration
Ministry of the Economy and Public Works

5. *Form of the subsidy (i.e. grant, loan, tax concession, etc.)*

6. *To whom and how the subsidy is provided (whether to producers, exporters or others; through what mechanism; whether a fixed or fluctuating amount per unit; if the latter, how this is determined)*

The refund is a mechanism by which the customs authority makes a payment to exporters on the basis of the free on board (f.o.b) export value declared, applying the percentages defined by law, for goods shipped from any Patagonian port. The procedure is defined in Resolution ANA 3304/87. It is valid only for products originating in the Patagonia region in their natural state or manufactured in the region.

7. *Subsidy per unit, or in cases where this is not possible, the total amount or the annual budget amount for the subsidy should indicate, if possible, the average subsidy per unit in the previous year.*

The refund scheme started on 1 January 1984, and will be in force until the year 2007.

(b) Second example from Argentina (G/SCM/3/ARG/Suppl.1)

1. *Title of the subsidy programme: Industrial Specialization Regime*

This regime has been suspended since 23 August 1996 pursuant to Decree No. 977/96, and no further programmes can be approved.

2. *Period covered by the notification*

The regime started in 1993 and was due to end on 31 December 1999.

3. *Policy objective*

This was a programme aimed at fostering industrial and entrepreneurial redeployment in order to improve competitiveness, by stimulating specialization in product lines, so as to concentrate production and achieve better scales, and supplementing supply on the domestic market with imported goods. It was a horizontal measure applying to all industrial sectors.

4. *Legislative authority*

Decree No. 2641 of 29 December 1992
Resolution ex-S.I.C. No. 14 of 18 January 1993
Resolution ex-S.I.C. No. 80 of 24 March 1993
Resolution ex-S.I.C. No. 148 of 6 May 1993

5. *Form of the subsidy*

The subsidy took the form of tariff reduction. Beneficiary companies were granted an import licence at differential tariffs for up to the amount of the increase in their exports with respect to a base year.

The products to be imported had to correspond to the same production sector as those exported and fall within the same chapter of the former Foreign Trade Nomenclature (NCE) or the present Common Nomenclature (NCM), first two digits of MERCOSUR (The southern Common Market).

6. *To whom and how the subsidy was provided*

The beneficiaries were industrial companies producing and exporting manufactured goods. The regime was open to the various industrial sectors. The benefit was granted on the basis of the annual increment in exports with respect to the base year of the programme, and only for products directly manufactured by the beneficiary falling within the tariff headings concerned. The base year was 1992.

In the case of multi-programmes, the base was discounted for each year of the programme and the benefit was granted on the ensuing increments. Enterprises submitting export programmes with a zero base had to indicate their links with local enterprises that produced or

had in the recent past produced goods similar to those they intended to export, in order to avoid fraud.

After the export documentation had been checked against the supporting information from the National Customs Administration, the beneficiary was granted a tariff reduction certificate to import goods for an amount equivalent to the increment achieved. This certificate was non-transferable and valid for an non-extendable period of 18 months for using up the balances.

Differential tariff treatment of imports

Imports corresponding to the increments achieved in exports under these programmes were subject to the following duty differential:

- 2 per cent until 31 December 1996;
- From 1 January 1997 to 31 December 1999, the benefit was to be reduced by 25 per cent annually until the full tariff rate was reached.

Imports under these programmes also paid the 3 per cent statistical tax.

7. *Subsidy per unit, or full explanation*

It was difficult to establish the amount of subsidy per enterprise because of the disparity and different scales of the programmes approved. It is perhaps more informative to say that on average the benefit represented until 1996 a reduction of 15 points in the tariff on different amounts, depending on the base data for each enterprise and its actual exports. Furthermore, this was the theoretical maximum cost, as the certificate might or might not be fully used.

8. *Duration of the subsidy*

The duration was from 1993 to 1999 inclusive for existing programmes. The duration of the aid depended on the presentation, which could be made through annual or multi-annual programmes. As mentioned above, the regime was suspended for new programmes.

2. Examples of subsidies maintained in conformity with Article 25

(a) South Africa: Duty Credit Certificate Scheme for Textiles and Clothing

The policy objectives and/or purpose of this scheme were: (i) to justify the use of subsidies to enable and encourage manufacturers to become more competitive; (ii) to improve productivity; and (iii) to provide training with a view to achieving international standards. It was introduced by the Government as part of a long-term strategic plan for the restructuring of the textile and clothing industries. Assistance is provided to exporters of textiles and clothing, and they earn duty credit certificates on the basis of their exports of products covered by the scheme.

The certificate allows these exporters credit to the value of the certificate on duties payable on imports of certain textile and clothing products. The value of the certificate (duty credit) is

calculated as a percentage of the "export sales value" of the exports. The granting of benefits in terms of the scheme is subject to each applicant participating in and achieving targets set under the Productivity Performance Monitoring Scheme (PPMS), and spending annually on training a targeted amount equal to at least 4 per cent of their wage bill.

The amount of the subsidy was about R 89 million for the period from April 1994 to March 1995, and about R 100 million for the period from April 1995 to March 1996. The trade effects of the subsidy may be assessed from the data in table 3.

Table 3
Total textiles and clothing imports and exports
(excluding wool fibre)

	Exports (R million)	Imports (R million)
1994	1,892.2	3,164.9
1995	1,423.7	3,778.3
1996	1,812.0	4,233.2

(b) Chile: Support Programme for the Management of Export Firms (G/SCM/N/38/CHL)

The objectives of this programme were: (i) to support efforts to promote technical innovation in bland technologies (management) and (ii) to enhance production quality in firms exporting manufactures or software. The form of the subsidy was a direct transfer by co-financing of assessment and project consultancies. The purpose was to offset major weaknesses in small- and medium-sized firms starting to operate in the export sector: little specialization, small-scale operations, low foreign marketing capacity, incremental improvement in production management and lagging behind in the stock of machinery and equipment. This meant that it was essential to devise a tool to promote production and increase the overall productivity level of factors and/or quality of production. The incentive was effective as of 9 August 1996 and concluded in June 1998.

The subsidy was for all firms exporting manufactures or software and demonstrating accumulated minimum exports of US$ 200,000 over the previous two years and, in addition, net sales of not more than the equivalent of US$ 10 million in the previous year.

The subsidies were to finance the hiring of consultants to assess the firms' degree of competitiveness and also for projects to incorporate modern production management techniques, so as to enhance such things as productivity and quality in the production planning and management processes when shortcomings had been detected during the assessment phase. The subsidy under this programme was granted to a firm only once. The annual budget for the subsidy is Ch$ 300 million (equivalent to US$ 730,500 at May 1998 rates). In 1997, the amount paid out

was Ch$ 36 million (equivalent to US$ 80,451 at May 1998 rates).

In order to benefit from this programme, firms are required to provide:

- Evidence of the impact of the reform process on the domestic industry (i.e. the factors mentioned in Article 15.4 of the ASCM which were the basis for the finding regarding the impact on the domestic industry);

- Evidence of causation of injury to the domestic industry (the basis for determining the causation of injury, and other factors which might at the same time be causing injury to the domestic industry).

IV. COUNTERVAILING MEASURES AND DISPUTE SETTLEMENT

A. Minimum information to be provided to implement countervailing measures

The following is the minimum information, agreed by the ASCM Committee on 13 June 1995, which a member needs to provide to the Committee in the reports on all preliminary or final countervailing actions:

- Title of the public notice regarding the action;
- Date and place of publication;
- Investigation (regulation) number and other notices relating to the same investigation (e.g. for initiation, provisional measure). For each subsidy investigated:
  - (a) form of subsidy (e.g. grant, loan, equity infusion);
  - (b) nature of subsidy (export or other);
  - (c) identity of granting authority;
  - (d) basis for determination of specificity;
  - (e) amount of subsidization (percentage or amount per unit, as appropriate);
- Where countervailing measures are imposed, the product (including customs classification), origin (country/customs territory/firm), rate of duty and effective date for each source of imports;
- Where an undertaking is involved, the product, country/customs territory/firm and effective date of the undertaking;
- Period of investigation (subsidization, injury);
- Date of subsidization determination;
- Date of injury determination;
- Type of injury found (material injury, threat, material retardation);
- Volume and import penetration of subsidized imports;
- Effect on domestic prices of the like product (whether there was significant price undercutting/price suppression or depression);
- Evidence regarding the impact on the domestic industry (i.e. the factors mentioned in Article 15.4 of the ASCM, which were the basis for the finding concerning the impact

on the domestic industry);

- Evidence of causation of injury to the domestic industry (the basis for determining the causation of injury, and other factors which might at the same time be causing injury to the domestic industry).

B. Procedures for arbitration under Article 8.5

The SCM Committee decided, pursuant to the decision of the WTO General Council of 31 January 1995, to adopt the following procedures for use in binding arbitration conducted in accordance with Article 8.5 of the ASCM (WT/GC/M/1).

1. Requests for arbitration

Any member wishing to request arbitration under Article 8.5 will address a written request to the Chairman of the SCM Committee. The request will include:

(a) the basis for the request, i.e. (i) a determination by the Committee under Article 8.4; (ii) failure by the Committee to make such a determination; and/or (iii) violation of the conditions set out in a subsidy programme notified under Article 8.3;

(b) the specific questions to be addressed by the arbitration body, as related to requirements under the provisions of Article 8.2, and a statement of the position taken by the member requesting the arbitration with respect to each such question;

(c) a brief summary of the information on which the request is based.

To become parties to the arbitration proceedings, other members will have a period of 15 days after the date of circulation of the request for arbitration in which to provide the Chairman of the Committee with a communication which shall conform with the requirements for requests for arbitration.

During the 30-day period, parties may also agree to any supplemental or alternative procedures for arbitration under Article 8.5. Any such procedures will be promptly notified to the members. If there is no agreement by all parties on those procedures, the procedures specified therein shall apply exclusively and in full.

2. Referral to arbitration

As soon as the composition of the arbitration body has been decided, a notice to that effect will be circulated promptly to the members.

For the purposes of Article 8.5, the date of circulation of the notice will be the date on which the matter is referred to the arbitration body.

C. Determination of injury

Determination of injury is based on positive evidence and includes an objective examination of:

(i) The volume of imports of the subsidized product;

(ii) Its effect on the prices of the like country product; and

(iii) The consequent impact of these imports on the domestic industry.

Regarding the volume of imports of the subsidized product, it is considered whether there has been a significant increase in subsidized imports, either in absolute terms or relative to the production or consumption in the country concerned. For a significant increase to be the basis of countervailing measures the imports must be "negligible".

The term "negligible" is understood to mean the volume of imports coming from a specific country, less than 3 per cent of the total imports of the like product, unless the countries that individually account for less than 3 per cent, collectively account for more than 7 per cent of the total imports of the like product.

In the case of developing countries, "negligible" is understood to mean the volume of imports when this accounts for less than 4 per cent of the total imports of the like product, unless these countries that account for, individually, less than 4 per cent, account for, collectively, more than 9 per cent of the total imports of the like product.

In this regard, the effect of imports of subsidized products on the prices of domestic products will be taken into consideration when there has been a significant price undercutting by the subsidized imports as compared with the price of a like product of the country concerned, or when the effect of such imports is to depress prices to a significant degree or to prevent price increases, which would otherwise have occurred.

However, when imports of a product originating from more than one country are simultaneously investigated, the effects of such imports will be determined cumulatively, if it is determined that:

(i) The amount of subsidization established in relation to the imports of each one of the countries is not *de minimis*,[5] and that the volume of imports of each country is not negligible; and

(ii) The cumulative assessment of the effects of these imports is appropriate in view of the conditions of competition between the products imported and the conditions of competition between these products and the like domestic product.

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[5]The amount of the actionable subsidy shall be considered *de minimis* when it is less than 1 per cent *ad valorem*. It shall be considered *de minimis* for developing countries when the global level of actionable subsidies granted for the product in question does not exceed 2 per cent *ad valorem*.

For developing country members which have eliminated subsidies for exports before the period of eight years from the date of the Marrakesh Agreement establishing the World Trade Organization (WTO Agreement), the value mentioned in the paragraph above will be 3 per cent *ad valorem*. This provision will be applied starting from the date of notification of the elimination of the export subsidy to the SCM Committee, and for the whole period in which export subsidies have not been granted by the developing country member which has notified.

V. SUGGESTIONS FOR IMPROVEMENTS[6]

1. Agreement on Subsidies and Countervailing Measures

In the ASCM, stronger disciplines have been placed on export and domestic subsidies (other than agriculture) which are generally used by developing countries for development of their industrial production and export. On the other hand, a safe haven has been created for certain non-actionable subsidies, such as those for research and development (R&D), development of disadvantaged regions and adaptation to environmental standards, which are generally prevalent in the developed countries, but not in developing countries because of scarce financial resources.

(i) Subsidies to be made non-actionable

Subsidies which are used in developed countries, for instance those for R&D, regional development and adaptation to environmental standards, have been declared non-actionable. However, subsidies used by developing countries for development, diversification and upgrading are actionable since action can be taken against them under certain conditions. This represents a grave imbalance in the Agreement. There should be an additional provision, if necessary, so that the subsidies used by developing countries for development, diversification and upgradating of their industry and agriculture are made non-actionable.

(ii) Protection of import substitution subsidy

Developing countries are allowed to grant a subsidy for the use of a domestic product in preference to an imported one (Article 27, paragraph 3.1(b)). However, some doubts have been raised about the application of this provision because of the restriction in the Agreement on Trade-related Investment Measures (TRIMs) on the domestic content requirement. There should be clarification in Article 27.3 so that this provision can be applicable without any reservation.

(iii) Export competitiveness

As provided in Article 27.5 of the Agreement, developing countries must phase out their export subsidies when they achieve export competitiveness (defined as a share of 3.25 per cent or more in world trade of a product for two consecutive calendar years). Therefore, there is automatic exclusion from this benefit when export competitiveness is achieved. However, there is no clarification about what will happen if a developing country loses export competitiveness. There should therefore be an additional provision in Article 27 in order to remove this disability.

(iv) Eligibility in Annex VII

With regard to the special dispensation regarding subsidies, developing countries have been included in Annex VII on the basis of a per capita GNP of less than US$ 1,000 per annum. Once the level of per capita GNP rises above that level, a country is to be excluded automatically from the list. Similarly, as in the case of export competitiveness, the weak point here is that there is

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[6]For detailed information on this part, see *Kelly (1999), IPC (1999) and OECD (1998).*

no provision at present for automatic inclusion of a developing country in the list when its per capita GNP falls to that level. There should be a provision in Annex VII which will take into consideration both the inclusion and exclusion of a country in the list.

2. Agreement on Agriculture

(i) Domestic support and export subsidy in developed countries

In their commitments, developed countries agreed to reduce their domestic support, budgetary outlay for export subsidy and the quantity of exports covered by export subsidy by 20 per cent, 36 per cent and 21 per cent respectively over the period 1995–2000. Developed countries should affirm this commitment, otherwise their domestic support and export support subsidy will continue to be applicable even beyond the year 2000. This goes against the interests of developing countries as it causes the unfair advantage which the farmers in developed countries have over those in developing countries. Therefore, developed countries should eliminate totally their domestic support and export subsidy immediately, the latest by 2005. In doing so, they should provide, for instance, schedules for their domestic support and export subsidy applicable from 2001 until 2005, by the end of which time the levels should be zero.

(ii) Domestic support and export subsidy in developing countries

Many developing countries did not apply domestic support and export subsidy earlier, and have not recorded them in their schedules. Thus, they have been debarred from applying these measures in future beyond the *de minimis* levels. In the light of this, flexibility in the use and extent of *de minimis* support allowed to developing should be introduced. These concerns can be met only by providing a certain degree of flexibility to developing countries through appropriate modification of the provisions of the AoA (Article 3), particularly as far as domestic support and "Green Box" measures are concerned. For example, it would be important to recognize that in time to come the 10 per cent *de minimis* level currently Aggregate Measurement of Support (AMS) may not be sufficient to provide the kind of support needed to alleviate poverty and sustain rural employment. In addition, as has been discussed in the analysis and exchange of information (AIE) process of the Committee on Agriculture, specific guidelines would be needed to formulate how to compensate for excessive rates of inflation and depreciation of currency–problems which developing countries face when calculating their AMS.

(iii) Excluding food products from the disciplines of import control and domestic support

In terms of economic development, it will not be entirely feasible for developing countries to depend on imported foods, as their foreign exchange position are often not sufficient, and the provision of food for their population is essential. A number of these developing countries have necessarily to take into account non-trade concerns such as food security when formulating their domestic policies. This is particularly true of developing countries where a significant percentage of the population is not only dependent on the agricultural sector for its livelihood, but also surviving just near the poverty line. In such countries a purely market-oriented approach may not be able to deliver the goods. Instead, it may be necessary to adopt a new approach under which non-trade concerns such as maintenance of the livelihood of the peasantry, i.e. rural

employment, and the production of sufficient food to meet domestic needs are taken into consideration. It is important to closely examine these aspects of the AoA, vis-à-vis their implementation, so as to ensure that the continued reform in the agriculture sector takes them into consideration. This means that the disciplines of import control and domestic support should not be applicable to food products in developing countries. It is a basic objective of government policies in agrarian developing countries to ensure food security and to allow the population to have access to sufficient food and meet its nutritional requirements. It is thus clear that issues related to food security are sensitive issues, and countries where a large part of the population is dependent on this sector would therefore like to have a certain degree of autonomy and flexibility in determining their domestic agricultural policies. This should be taken into consideration in Articles 3 and 4 of the AoA, or if necessary a provision should be added to the Agreement to this effect.

(iv) Removing inequity in Article 13

The "due restraint" provision in Article 13 is very unbalanced and inequitable. Subsidies covered by Annex 2, which are generally prevalent in developed countries, have been made immune from countermeasures and countervailing duty action. However, subsidies which are generally prevalent in developing countries, for instance investment subsidy and input subsidy, covered by Article 6, do not benefit from this dispensation. This is an unfair situation, and developing countries should vigorously seek its elimination. In this context, Article 13 should be modified.

(v) Supporting household farmers and small farmers

In many developing countries, agriculture is not a commercial venture, but an activity that has intricate sociocultural and environmental links and connotations. The small farmers involved have no way of withstanding large-scale international competition. They need protection if large-scale unemployment and the spread of poverty in these countries are to be limited. They should be allowed flexibility regarding import restraint and domestic subsidy in order to protect and support household subsistence farming and small-scale farming. This should be clarified in Articles 3 and 4, and, if considered necessary, there should be an additional provision for that purpose.

(vi) Adopting transparency regarding domestic subsidy

To match the ceiling of domestic support in a particular year, it is possible for a country to modulate the choice of product and the rate of subsidy. This creates confusion in the minds of exporters in other countries, who do not know which products will be covered by the reduction and to what extent. For the sake of transparency, there is a need to remove this uncertainty. Member countries should therefore agree to plan the products and the levels of support a few years in advance, and this information should be notified.

3. Dispute settlement

(i) Reducing costs for developing countries

Examples presented in this study show that the dispute settlement process is very costly and complex. This may discourage developing countries from launching the process, even if they are convinced that their rights have been violated or that another country has not observed its commitment under the Agreement. As developed countries with more resources do not have such an handicap, there is a grave imbalance in rights and obligations. Therefore, to encourage the effective participation of developing countries in the process, the Dispute Settlement Body (DSB) should provide technical assistance to them.

(ii) Retroactive compensation to developing countries

When the findings concerning a dispute launched by a developing country are in its favour, the period during which the other party removes the offending measures may be as long as nearly 30 months from the beginning of the process. This is too long, and in the intervening period the trade of the developing country will have sustained some damage. In such a situation, when the complainant is a developing country and a developed country's action is the subject of dispute, the DSB should devise specific means so that the developed country can provide adequate compensation for the period starting from the beginning of the case until the complete implementation of the recommendations. The time for implementation of the recommendations should be also short, so as to take account of these concerns (e.g. a period of up to three months rather than 30 months seems to be reasonable).

(iii) Exemption and/or reimbursement of cost to developing countries

In the light of the costs incurred by developing countries in presenting their case to the DSB panel, there is a need to exempt them from these costs for this period (with an agreed period if necessary) or to reimburse them if their case is successful. In this context, the DSB should take action to assess the costs to be paid.

4. Post-Seattle and emerging trade issues in agriculture

One of the core questions that negotiators faced at the WTO Ministerial Conference in Seattle, without being able to come up with a precise answer, was how could domestic support objectives, including those related to environment, rural development and the social situation of farmers, be achieved in ways that do not or only minimally distort production and trade? Furthermore what are the potential complementarities and trade-offs between these domestic support objectives and trade liberalization? Which approaches can be taken in a national or multilateral policy context to maximize complementarities and minimize conflicts?

In Seattle, a specific set of questions regarding multifunctionality was raised and defended by the European Union's negotiator. It was pointed out that a clear distinction should be made between the multifunctionality characteristics of agriculture and those of other economic activities, and policies that aim to achieve them.

According to many civil society organizations, such as non-governmental organizations and trade unions that demonstrated against the Seattle Ministerial Conference, it makes sense to assess the earlier reforms before carrying out further policy reforms. For example, the prices

received by farmers for their products have fallen considerably. Also, prices to consumers in the supermarkets have not changed or have increased. So, finally, who benefited from the reforms? The points set out below are a set of specific concerns which were raised in Seattle and remain critical for the continuation of negotiations in the agricultural sector.

(i) Can WTO rules handle non-trade concerns?

There is a need for negotiators to know clearly what can and cannot be done in the WTO "Green Box". A case in point is that of Canada, which has a farm safety net programme that averages income over five years. This does not fit into the "Green Box" since only safety net programmes that are averaged over three years are eligible. Therefore, Governments will need to have some flexibility in running a farm programme that meets their particular circumstances. It makes sense to emphasize that the aim of the WTO is to remove trade distortions, not to eliminate farm programmes. If the "Green Box" cannot accommodate items such as "multifunctionality" objectives, Governments will seek flexibility in the "Amber" and "Blue" boxes, rather than moving out of them. This would enable them to establish prior determination of "Green Box" status, thus avoiding unforeseen countervailing action.

(ii) The need to clarify the concept of multifunctionality

Given the misunderstanding which characterized the discussions on this concept during the Seattle Ministerial Conference, policy makers need to adopt an agreed definition on the special nature of agriculture, including its positive contribution to the rural economy. For example, it is important to clarify the debate on what positive externalities and public goods are produced jointly with food? Where does the definition of good farming practise end, and the provision of environmental and other services begin? International organizations such as UNCTAD could help negotiators, particularly those from developing countries to come up with attractive and viable proposals that do not distort trade.

(iii) What are the basic elements of fair, competitive behaviour?

What type of national response is tolerable or acceptable for dealing with problems caused by more open markets? What options are available for dealing with concerns related to food security and market instability? The ongoing liberalization needs rules to be developed in order to discipline the use of export subsidy, export promotion programmes, and food aid. Rules are also needed to counter anti-competitive behaviour, and to regulate the concentration of market power. For example, a few large companies control much of the intellectual property in the seeds sector; the food market is dominated by a few large companies and retailers. Furthermore, analysis is needed to determine what impact producer commodity boards have on the operation of the global market. There are many questions about the correct functioning of global markets which needs answers from negotiators and policy makers.

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ANNEX

Examples of notifications discussed at the Committee on Agriculture, 20–21 November 1997

(I) Domestic support

Questions by New Zealand

Question 1: Can Norway clarify the distinction between grain price support notified as "Green Box" measures under "food security" and the market price support for wheat, barley and oats notified under Supporting Table DS:5?

Answer: The grouping calculations relating to the market price support and the "Green Box" measures for grain are the same in the present notification as it was in the notification last year and in the Norwegian schedule. The market price support calculation includes the administered prices and the eligible production of grain in Norway. The measure included in the "Green Box" is the corresponding budgetary item which secures the obtaining of these prices, but which also includes various payments for food security purposes. According to Annex 3, paragraph 8, of the Agreement on Agriculture, the budgetary payment made to maintain the domestic price level will not be included in the AMS. The "Green Box" figure includes some "yellow" support, but it has been difficult to separate this element. We have been aware of the element of overlapping resulting from this, but have chosen what we thought was the most transparent way of notifying the support under this measure. It is important to note that this method has not influenced the "Yellow Box" calculations or reduced the size of the "Yellow box".

Question 2: In measuring the grain price support for food security, does Norway use external reference prices, or is the figure of NKr 690.3 million the actual budgetary outlay for this measure in 1996?

Answer: The figure of Nkr 690.3 million is the actual budgetary outlay for the marketing scheme.

Questions by the United States

Question 1: Why has Norway included the "market price support programme" as public stockholding for food security? How can Norway justify this programme under Annex 2, paragraph 3, of the Agreement on Agriculture, which clearly provides that commodities purchased for "clearly defined food security programme" must be purchased at market prices?

Answer: This question corresponds to the questions put by New Zealand.

Question 2: Could Norway provide detailed information regarding the nature of and eligibility to participate in the "advice and promotion for small animals" programme listed under General Services? Does this programme meet the criteria of Annex 2, paragraph 8 of the Agreement on Agriculture?

Answer: As indicated in the notification, this programme has two functions. First, it includes

support to cover advice and promotion activities, and second, it covers support relating to pasturing activities. The general support to advice and promotion covers certain services, particularly related to work to improve breeding of sheep, poultry and other animals. Also, work relating to *inter alia* advice at the farm level and registration of statistics is eligible to support according to guidelines for the fund. Furthermore, The fund may compensate for losses of animals (particularly sheep) in accidents during the pasturing season in the mountains, and support is also granted for measures aimed at preventing such losses. Only organized groups of farmers who cooperate in activities such as supervision during pasturing, collection of animals after the pasturing season and certain improvements in the pasturing areas are eligible for support.

Question 3: How does the policy concerning payments for relief from natural disasters, listed under the natural disaster payment category, meet the criteria of Annex 2, paragraph 8, of the agreement on Agriculture?

Answer: The scheme is aimed at supporting farmers and horticultural producers that have substantial losses in yields due to climate related circumstances which they have no possibility of preventing. Four different categories of support are covered by the scheme. This includes compensation for losses in crops due to climatic circumstances, support for purchase of coarse fodder if the grassland has been destroyed, support if the grassland is destroyed during winter due to ice, freezing etc., and support for renewal of fruit trees destroyed during winter. Only producers experiencing extraordinary circumstances are eligible for support. The scheme covers only destruction of crops for food or feeding, including seed and seed potatoes. Normal fluctuations of yields or destruction due to weeds, plant diseases or vermin do not qualify for compensation under this scheme.

Compensation is paid on the basis of an individual assessment of the destruction caused at each farm. It is calculated according to a overall evaluation of the destruction, and high yields for some crops may imply that no compensation is paid for other crops with low yield. The farmers are partly responsible for the losses, and accordingly compensation covers only a certain percentage of the estimated loss. In northern Norway, compensation covers 78 per cent of the total loss, and in the rest of the country 73 per cent.

In the same vein, the United States asked whether the Philippines could confirm that rice is the only commodity provided with price support during the reporting period, which is for 10 years for developing countries, starting on 1 January 1995. The representative of the Philippines confirmed that his country does not use product-specific or non-product-specific measures other than those already identified, including those for rice.

Concerning domestic support for infrastructure development for transportation in the sugar industry, Australia responded to the following questions by Colombia:

- What exactly is the scope of the support for construction of transportation facilities?

- What is the form of the support, i.e. loans at subsidized rates, payments for construction, free use of facilities?

- Are the facilities made available to producers in the same neighbourhood that produce other products?

- Is the support made available for producers in the same neighbourhood?

According to the representative of Australia, the Sugar Industry Infrastructure Program (SIIP) is a Commonwealth and State Government contribution towards the construction of dedicated infrastructure for the sugar industry. The SIIP, which provides funding for infrastructure development (transport, irrigation and drainage) in the Queensland and New South Wales sugar industries, was part of a package of sugar industry initiatives announced in 1993 designed to ensure the future growth of the Australian sugar industry.

The scope of the SIIP is limited to infrastructure projects dedicated to the sugar industry. In the construction of transport facilities the only support which has been provided has been in the construction of new cane tramway systems. Irrigation facilities which may be funded through the SIIP are weirs, dams and channels.